

# House File 2740 - Enrolled

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HOUSE FILE 2740

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1 2  
1 3 AN ACT  
1 4 RELATING TO THE JUDICIAL BRANCH AND COURT ADMINISTRATION AND  
1 5 PROCEDURE AND PROVIDING A PENALTY.  
1 6  
1 7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
1 8  
1 9 Section 1. Section 232.133, subsection 2, Code 2005, is  
1 10 amended to read as follows:  
1 11 2. Except for appeals from ~~final~~ orders entered in child  
1 12 in need of assistance proceedings or ~~final~~ orders entered  
1 13 pursuant to section 232.117, appellate procedures shall be  
1 14 governed by the same provisions applicable to appeals from the  
1 15 district court. The supreme court may prescribe rules to  
1 16 expedite the resolution of appeals from final orders entered  
1 17 in child in need of assistance proceedings or ~~final~~ orders  
1 18 entered pursuant to section 232.117.  
1 19 Sec. 2. Section 236.5, subsection 5, Code 2005, is amended  
1 20 to read as follows:  
1 21 5. A copy of any order or approved consent agreement shall  
1 22 be issued to the plaintiff, the defendant, the county sheriff  
1 23 ~~having jurisdiction to enforce the order or consent agreement~~  
1 24 ~~of the county in which the order or consent decree is~~  
1 25 ~~initially entered~~, and the twenty-four hour dispatcher for the  
1 26 county sheriff. Any subsequent amendment or revocation of an  
1 27 order or consent agreement shall be forwarded by the clerk to  
1 28 all individuals and the county sheriff previously notified.  
1 29 The clerk shall notify the county sheriff and the twenty-four  
1 30 hour dispatcher for the county sheriff in writing so that the  
1 31 county sheriff and the county sheriff's dispatcher receive  
1 32 written notice within six hours of filing the order, approved  
1 33 consent agreement, amendment, or revocation. The clerk may  
1 34 fulfill this requirement by sending the notice by facsimile or  
1 35 other electronic transmission which reproduces the notice in  
2 1 writing within six hours of filing the order. The county  
2 2 sheriff's dispatcher shall notify all law enforcement agencies  
2 3 having jurisdiction over the matter and the twenty-four hour  
2 4 dispatcher for the law enforcement agencies upon notification  
2 5 by the clerk.  
2 6 Sec. 3. Section 558.66, unnumbered paragraph 1, Code 2005,  
2 7 is amended to read as follows:  
2 8 Upon receipt of a certificate ~~from~~ issued by the clerk of  
2 9 the district court or ~~an appellate clerk of the supreme court~~  
2 10 indicating that the title to real estate has been finally  
2 11 established in any named person by judgment or decree or by  
2 12 will or by affidavit of or on behalf of a surviving spouse  
2 13 that has been recorded by the recorder, the auditor shall  
2 14 enter the information in the certificate upon the transfer  
2 15 books, upon payment of a fee in the amount specified in  
2 16 section 331.507, subsection 2, paragraph "a". ~~In the case of~~  
2 17 ~~a certificate from the clerk of the district court or an~~  
2 18 ~~appellate court, the fee shall be taxed as court costs,~~  
2 19 ~~collected by the clerk, and paid to the treasurer as provided~~  
2 20 ~~in section 331.902, subsection 3.~~ In the case of the  
2 21 affidavit filed with the recorder, the fee set forth in  
2 22 section 331.507, subsection 2, paragraph "a", and the fee set  
2 23 forth in section 331.604, shall be collected by the recorder  
2 24 and paid to the treasurer as provided in section 331.902,  
2 25 subsection 3.  
2 26 Sec. 4. Section 602.3101, subsection 2, Code 2005, is  
2 27 amended to read as follows:  
2 28 2. The state court administrator or a designee of the  
2 29 state court administrator shall act as ~~secretary~~ administrator  
2 30 to the board.  
2 31 Sec. 5. Section 602.4102, subsection 5, Code 2005, is  
2 32 amended to read as follows:  
2 33 5. The court of appeals shall extend the time for filing  
2 34 of an application if the court of appeals determines that a  
2 35 failure to timely file an application was due to the failure  
3 1 of the clerk of the court of appeals to notify the prospective  
3 2 applicant of the filing of the decision. ~~If an application~~  
3 3 ~~for further review is not acted upon by the supreme court~~

3 4 within thirty days after the application was filed, the  
3 5 ~~application is deemed denied, the supreme court loses~~  
3 6 ~~jurisdiction, and the decision of the court of appeals is~~  
3 7 ~~conclusive.~~

3 8 Sec. 6. Section 602.5106, subsection 2, Code 2005, is  
3 9 amended to read as follows:

3 10 2. A decision of the court of appeals is final and shall  
3 11 not be reviewed by any other court except upon the granting by  
3 12 the supreme court of an application for further review as  
3 13 provided in section 602.4102. Upon the filing of the  
3 14 application, the judgment and mandate of the court of appeals  
3 15 is stayed pending action of the supreme court ~~or until the~~  
3 16 ~~expiration of the time specified in section 602.4102,~~  
3 17 ~~subsections 4 and 5.~~

3 18 Sec. 7. Section 602.6401, subsection 2, Code Supplement  
3 19 2005, is amended to read as follows:

3 20 2. By February of each year in which magistrates' terms  
3 21 expire, the state court administrator shall apportion  
3 22 magistrate offices among the counties in accordance with the  
3 23 following criteria:

3 24 a. ~~The number and type of proceedings contained in the~~  
3 25 ~~administrative reports required by section 602.6606.~~

3 26 b. ~~a.~~ The existence of either permanent, temporary, or  
3 27 seasonal populations not included in the current census  
3 28 figures.

3 29 c. ~~b.~~ The geographical area to be served.

3 30 d. ~~c.~~ Any inordinate number of cases over which  
3 31 magistrates have jurisdiction that were pending at the end of  
3 32 the preceding year.

3 33 e. ~~d.~~ The number and types of juvenile proceedings  
3 34 handled by district associate judges.

3 35 Sec. 8. Section 602.8102, subsections 44, 79, and 113,  
4 1 Code Supplement 2005, are amended by striking the subsections.

4 2 Sec. 9. Section 602.8102, subsection 106, Code Supplement  
4 3 2005, is amended to read as follows:

4 4 106. Carry out duties relating to the administration of  
4 5 small estates as provided in sections 635.1, 635.7, and 635.9-  
4 6 ~~and 635.11.~~

4 7 Sec. 10. Section 626.16, Code 2005, is amended to read as  
4 8 follows:

4 9 626.16 RECEIPT AND RETURN.

4 10 Every officer ~~to whose hands who receives~~ an execution ~~may~~  
4 11 ~~come shall give provide~~ a receipt ~~therefor~~, if required,  
4 12 stating the hour when the same was received, and shall make  
4 13 sufficient return ~~thereof of the execution~~, together with the  
4 14 money collected, on or before the ~~seventieth~~ one hundred  
4 15 ~~twentieth~~ day from the date of its issuance.

4 16 Sec. 11. Section 633.305, Code 2005, is amended to read as  
4 17 follows:

4 18 633.305 NOTICE IF NO ADMINISTRATION.

4 19 On admission of a will to probate without administration of  
4 20 the estate, ~~and upon advanced payment of the costs by the~~  
4 21 ~~proponent, the clerk~~ shall cause to be published, in the  
4 22 manner prescribed in the preceding section, a notice of the  
4 23 admission of the will to probate. As soon as practicable  
4 24 following the admission of the will to probate, the proponent  
4 25 shall give notice of the admission of the will to probate by  
4 26 ordinary mail addressed to the surviving spouse, each heir of  
4 27 the decedent, and each devisee under the will admitted to  
4 28 probate whose identities are reasonably ascertainable, at such  
4 29 persons' last known addresses. The notice of the admission of  
4 30 the will to probate shall include a notice that any action to  
4 31 set aside the will must be brought within the later to occur  
4 32 of four months from the date of the second publication of the  
4 33 notice or one month from the date of mailing of this notice,  
4 34 or thereafter be barred.

4 35 As used in this section, "heir" means only such person as  
5 1 would, in an intestate estate, be entitled to a share under  
5 2 section 633.219.

5 3 The notice shall be substantially in the following form:

5 4 Notice of Proof of Will Without Administration

5 5 In the District Court of Iowa

5 6 in and for .... County.

Probate No.

5 7 .....

5 8 In the Estate of ....., Deceased

5 9 To All Persons Interested in the Estate of ....., Deceased,

5 10 who died on or about ..... (date):

5 11 You are hereby notified that on the .... day of .....

5 12 (month), ... (year), the last will and testament of .....,

5 13 deceased, bearing date of the .... day of ..... (month), ...

5 14 (year), was admitted to probate in the above named court and

5 15 there will be no present administration of the estate. Any  
5 16 action to set aside the will must be brought in the district  
5 17 court of the county within the later to occur of four months  
5 18 from the date of the second publication of this notice or one  
5 19 month from the date of mailing of this notice to all heirs of  
5 20 the decedent and devisees under the will whose identities are  
5 21 reasonably ascertainable, or thereafter be forever barred.

5 22 Dated this ..... day of ..... (month), ... (year)

5 23 .....  
5 24 ~~Clerk of the district court~~ Proponent

5 25 .....  
5 26 Attorney for estate

5 27 .....  
5 28 Address

5 29 Date of second publication  
5 30 .... day of ..... (month), ... (year)

5 31 (Date to be inserted by publisher)

5 32 Sec. 12. Section 642.23, unnumbered paragraph 1, Code  
5 33 2005, is amended to read as follows:

5 34 Notwithstanding the ~~seventy-day~~ one hundred twenty-day  
5 35 period in section 626.16 for the return of an execution in  
6 1 garnishment for the payment of a support obligation, the  
6 2 sheriff shall promptly deposit any amounts collected with the  
6 3 clerk of the district court, and the clerk shall disburse the  
6 4 amounts, after subtracting applicable fees, within two working  
6 5 days of the filing of an order condemning funds as follows:

6 6 Sec. 13. Section 655.4, Code 2005, is amended to read as  
6 7 follows:

6 8 655.4 ENTRY OF FORECLOSURE.

6 9 When a judgment of foreclosure is entered in any court, the  
6 10 ~~clerk mortgagee~~ shall record with the recorder an instrument  
6 11 in writing referring to the mortgage and duly acknowledging  
6 12 that the mortgage was foreclosed and giving the date of the  
6 13 decree. A mortgagee who fails to record such instrument  
6 14 within thirty days of receiving a written request to record  
6 15 shall be subject to a penalty of one hundred dollars plus  
6 16 reasonable attorney fees incurred by the party aggrieved, to  
6 17 be recovered in an action for the satisfaction or

6 18 acknowledgement by the party aggrieved. The fee for recording  
6 19 and indexing an instrument shall be as provided in section  
6 20 331.604.

6 21 Sec. 14. Section 655.5, Code 2005, is amended to read as  
6 22 follows:

6 23 655.5 INSTRUMENT OF SATISFACTION.

6 24 When the judgment is fully paid and satisfied upon the  
6 25 judgment docket of the court, the ~~clerk mortgagee~~ shall record  
6 26 with the recorder an instrument in writing, referring to the  
6 27 mortgage and duly acknowledging a satisfaction of the  
6 28 mortgage. A mortgagee who fails to record such instrument  
6 29 within thirty days of receiving a written request to record

6 30 shall be subject to a penalty of one hundred dollars plus  
6 31 reasonable attorney fees incurred by the party aggrieved, to  
6 32 be recovered in an action for the satisfaction or  
6 33 acknowledgement by the party aggrieved. The fee for recording  
6 34 and indexing an instrument shall be as provided in section  
6 35 331.604.

7 1 Sec. 15. Sections 602.6605, 602.6606, and 635.11, Code  
7 2 2005, are repealed.

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7 6 \_\_\_\_\_  
7 7 CHRISTOPHER C. RANTS  
7 8 Speaker of the House

7 9  
7 10 \_\_\_\_\_  
7 11 JEFFREY M. LAMBERTI  
7 12 President of the Senate

7 13  
7 14 I hereby certify that this bill originated in the House and  
7 15 is known as House File 2740, Eighty-first General Assembly.

7 16  
7 17  
7 18 \_\_\_\_\_  
7 19 MARGARET THOMSON  
7 20 Chief Clerk of the House

7 21 Approved \_\_\_\_\_, 2006

7 22  
7 23

7 24 \_\_\_\_\_  
7 25 THOMAS J. VILSACK

